88- 1799

In the

Supreme Court of the United States

Supreme Court, U.S.
FILED
MAY 8 1989
JOSEPH F. SPANIOL, JR.
CLERK

October Term, 1989

No. 89-

WILLIAM D. JACKSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

William D. Jackson
44 58th Street, S.E.
Washington, DC 20019

May , 1989

QUESTIONS PRESENTED FOR REVIEW

1. Whether Congress of the United States acted improperly in permitting the District of Columbia Government to legalize public lottery, and thereby acted in disregard of its plenary powers over interstate commerce, as granted by Article One in the Constitution of the United States, and further in complete disregard of the discussions of the Supreme Court of the United States which have prohibited state-sponsored gambling over many years.

2. Whether the Fourteenth Amendment to the Constitution of the United States was not violated, inasmuch as lottery transgresses upon the rights of citizens of the United States to equal protection; and that such legalized gambling is deleterious to the health, welfare and

morals of the citizenry.

3. Whether the United States Court of Appeals for the District of Columbia afforded the appellant a reasonable review of the order of dismissal entered by the United States District Court for the District of Columbia, without a hearing on the merits; it being deemed by Petitioner that the Statute of Limitations had not run against the bringing of the initial complaint; and that the issues are of immediate importance to the public well being. Congress gave itself the power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States, but all duties, imposts and excises shall be uniform throughout the United States.

4. Question: How does state owned

constitutionally sanctioned lotteries which were deemed corrupt, fraudulent and degenerative in a staff report requested by a congressman, Chairman of the House Committee on the District of Columbia, November 2, 1977, fit into a constitutional sanction?

5. Does the direct authorization by the constitutional retention permit the D.C. Pathological Gambling State Owned Lottery Statute 3-172 to be under the protection of Article I, Section VIII, Clause XVIII of the Constitution--to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States and any Department thereof? Is Pathological Gambling a necessary and proper method for

raising taxes?

6. Whether the action taken by the Congress in the Amendment of the Criminal Statute Title 18 U.S.C. 1301-1304 contains substance which can't be accepted as constitutional because it has the effect of altering criminal activities which exclude state owned lotteries from statutory adjudicated prohibition?

7. Whether that once Congress has made its choice in enactment of legislation its participation when challenged for constitutionality has been granted to this third article court its branches and duties are functionally identifiable?

Whether it has been constitutionally adjudicated that lottery tickets are subjects of commerce and that authority given by legislative enactment is not

protected by the contract clause of the constitution?

8. Whether these gambling laws 18 U.S.C. 1307 - D.C. Gambling Law 3-172 are created by acts of the legislature, defined by statute, required by a statue and conforming to a statute?

9. Whether the Home Rule Reorganization Act 93-198 Section 601 "More Specific Retention of Constitutional Authority" ascribes "Reservation of Congressional Authority" nothwithstanding any other provision of this act, the Congress of the United States reserves the right, at any time, to exercise the Constitutional Authority as legislature for the District, by enacting legislation for the District on any subject, whether within or without the legislative power granted to the council by this act,

including to amend or repeal any law in force in the District prior to or after the enactment of this Act and any act passed by the Council.

10. The Congress legislated in Article I, Section VII, Clause I - All bills for raising revenue shall originate in the House of Representatives. This is a needed question. Is the Amendment 18 U.S.C. 1307 which lifted the prohibition for state owned lotteries usage of commerce facilities for promoting, and advertising the results of lottery winners as a form of raising revenue, a constitutionally accepted one?

11. Does the direct authorization by the constitutional retention permit the D.C. Pathological Gambling State Owned Lottery Statute 3-172 to be under the protection of Article I, Section VIII,

Clause XVIII of the Constitution--to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States and any Department thereof? Is Pathological Gambling a necessary and proper method for raising taxes?

12. Whether our government lowered the taxes for the poor, which gave them pride to be a part of supporting their share as best means possible for those Preamble Principles that amounted into millions of dollars from each state?

13. Whether the entire debate about state-operated lotteries is a result of the pressure for additional revenues for the state. Within this present context, whether lotteries are purely simple viewed

as means of raising revenues from the citizens of America who are inclined toward, or can be enticed, into playing the lotteries?

14. Whether the District of Columbia where Congress retains full constitutional authority over every bill from the council for enactment into law (D.C. Pathological Gambling Law 3-172) in four short years 117 million dollars was transferred to the general fund. Whether the Mayor said, "that 40 million dollars helped to provide much needed services such as health care, fire and police protection and education for all residents of Washington, D.C."

15. Whether that this really is a state constitutional lottery, in fact, a business run by the Congress of the United States. It uses the facilities of Federal Commerce to market a product, a chance at

winning a prize, in a market place subject to the same laws of supply and demand as any other regulated commerce, but state owned lotteries as a form of commerce is not regulated. In this case, the Congress rather hypocritically created a monopoly by permitting criminal statutes (18 U.S.C. 1301-1302-1302-1304) to apply to anyone other than Government sanctioned state lotteries.

U.S.C. 28 Sec. 1253 ... "Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suite or proceeding required by any Act of Congress to be heard and determined by a district court of three judges..." 28 Sec. 1254 ... By appeal by a party relying on a State statute held by a court of appeals to be invalid as repugnant to the Constitution, treaties or laws of the United States, but such appeal shall preclude review by writ or certiorari at the instance of such appellant, and the review on appeal shall be restricted to the Federal Questions 28 Sec. 1257 ..."(1) By appeal, where is drawn in question the validity of a treaty

or statute of the United States and the decision is against its validity. (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Contitution, treaties or laws of the United States, and the decision is in favor of its validity..."

The United States Constitution:

Art. I, Sect. 1 -- vesting legislative power in U.S. Congress.

Art. I, Sect. 7, Ch. 1 -- revenue bills to originate in the House of Representatives.

Art. I, Sec. 8, Cl. 3 -- Interstate Commerce Clause.

Art. I, Sect. 8, Cl. 17 -- Congressional authority over seat of government and federal properties.

Art. I, Sec. 8, Cl. 18 -- Necessary and Proper Clause.

Art. I, Sect. 10, Cl. 1 - Contracts Clause and other limits on States.

Art. III -- vesting judicial power in Supreme Court and "inferior Courts".

Art. VI, Cl. 2 -- federal law to be supreme law of the land.

TABLE OF AUTHORITIES

CASES:

Champion v. Ames, 188 U.S. 321, 23, S.CT 321-47LES 492 (1903)

Gibbons v. Ogden 9 Wheaton 6 L. Ed. 23 (1824)

Stone v. Mississippi, 101 U.S. 814, 25 L.Ed. 1079 (1879)

Marbury v, Madison Cranch 137, 2 L.Ed 60 (1803)

Statute

Title 18 - Crimes and Criminal Procedure, Part I - Crimes, Chapter 61 - Lotteries, Section 18 - U.S.C. 1301-1307.

District of Columbia Self-government and Governmental Reogranization Act. Pub. Law No. 93-198, Title 6, Section 601 - 1987.

TABLE OF CONTENTS

	PAGE
QUESTIONS PRESENTED FOR REVIEW	i
TABLE OF AUTHORITIES	x
OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL AND STATUTORY PROVISIONS REVELANT TO THIS CAUSE	3
THE PREAMBLE	5
LEGAL ASPECTS OF A STATE SPONSORED LOTTERY	8
OPERATING BEYOND CONSTITUTIONAL LAW	10
LIMITATIONS NOT BINDING	11
PROCEEDINGS IN THE COURTS BELOW THAT PRESERVED THE CONSTITUTIONAL QUESTIONS	13
REASONS TO DISMISS THE STATUE OF LIMITATIONS IN THE CASE OF JACKSON V. UNITED STATES	15

PAGE

STATUTE OF LIMITATIONS CALCULATION 18

ARGUMENT 19

CONCLUSION 28

APPENDICES 1a

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1989

No. 89-

WILLIAM D. JACKSON,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

The Petitioner, William D. Jackson, pro se, prays that a writ of certiorari issue from the Honorable Court to review the final order of the United States Court of Appeals for the District of Columbia in this matter.

OPINIONS BELOW

The order of the United States

District Court for the District of Columbia, in which summary judgment was granted the respondent's published Opinion was not reported, but requested, and it is printed as Appendix A, attached hereto and made a part hereof; as well as the unpublished order of the United States Court of Appeals for the District of Columbia, attached hereto and made a part hereof as Appendix B. Petitioner requested published Opinion and memoranda which was refused (Appendix D and Appendix E). It is from those decisions below from which certiorari is sought, praying that this Court will reverse and remand the decisions below.

JURISDICTION

This Court has jurisdiction hereof by virtue of 28 United States Code Section 1253 and 1254 (2) and 1257. That on the

13th day of December 1988, the United States Court of Appeals for the District of Columbia issued its order summarily dismissing the appeal, without a hearing thereon, and without ascribing its reasons therefore, despite petitioner's request an order that was specifically set forth its findings and conclusions for its order of denial.

CONSTITUTIONAL AND STATUTORY PROVISIONS RELEVANT TO THIS CAUSE

Petition to this Honorable Court for the review of the constitutional characterization from a three-judge court decision of the United States Court of Appeals for the District of Columbia Circuit's Affirmation of the Interlocutory Order from the United States Court for the District of Columbia.

The Petitioner William D. Jackson, pro se, prays that this Honorable Court will review the interloctutory order which invokes a controlling question of common law as to which there is substantial ground for constitutional difference, and that an appeal to the District Court of three judges from a order denying after notice an interlocutory of permanent injunction in this civil action proceeding required by an act of Congress to be heard and determined by a District Court of three-judges.

18 U.S.C. 1307 State Owned Lottery Statute and the D.C. Pathological Lottery Law 3-172 amended criminal statutes are enacted by the total authority "Title VI-Reservation of Congressional Authority and the Retention of Constitutional Authority-Section 601" nothwithstanding any other

provision the Congress of the United States reserves, the right, at any time to exercise its constitutional authority as legislature for the District, by enacting legislation for the District on any subject whether within or without the scope of legislative power granted to the council by this act, including legislation to amend or repeal any law in force in the District prior or after enactment of this act and any act passed for the council by the Congress of the United States. Both of the acts supra are repugnant to the Constitution and are causing injury in fact to Petitioner's domestic tranquility and to his prosperity.

THE PREAMBLE

> "We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general

> welfare and insure the blessings of liberty to ourselves and our posterity, to ordain and establish this Constitution for the United States of America."

There is much in the preamble to the Constitution which we find hard to understand; but we seem to understand so fully as to imagine that we have discovered in it some difficulty or inconsistency.

The Preamble to the Constitution is designed to avoid excessive individualism. It is the greatest masterpiece that is symbolic of divine existence in and for direction to guide one's aspiration as well as the substance in one's duty to serve. The Preamble is the voice of America voting for one nation under God, indivisible with liberty and justice for all. The Preamble is the America to whom God has shed his grace (the unmerited

favor) upon. The Preamble holds words of justice which declares the divine glory far above our power to add or detract. This Preamble is the emancipation proclamation for every AMERICAN citizen in these United States from the slavery to any acts repugnant to the Constitution of the United States of America.

1. The Preamble of the Constitution is a scale upon which all constitutional questions should be measured.
2. The Preamble is the necessary mold by which all constitutional rationality is rendered precise and exact.
3. The Preamble is a symbol for a introductory statement of the solid foundation necessary for the office by which all leadership should be governed for universal welfare.
4. The contents in the Preamble houses

the substantive power for the total voice of America and those who are yet to be born.

5. It is upon the power of the "herein granted" that governs every person elected to the Congress of the United States to serve as complete legislature for America.

LEGAL ASPECTS OF A STATE SPONSORED LOTTERY

Whether a form of gambling is legal or illegal in a given State depends on that State's statute. Some States allow certain forms of gambling and not others, whereas some States prohibit all forms of gambling. Only Nevada allows all forms of gambling. Even in a given State that allows a certain form of gambling, it is only legal if operated through the appropriate State-controlled channels.

According to the District of Columbia

Code, all forms of gambling are prohibited in the District. Chapter 15, 22 D.C. Code Section 1501 to 1515 exemplifies this broad prohibitory approach to gambling. According to the code, the restriction includes everything: Bingo raffles, poker games among friends, the private wager among friends, the office baseball pool as well as the more organized street numbers games, gambling saloons, floating crap games, and secret "hole in the wall hideaways" which may house gaming tables concealed slot machines and other gambling activities.

If a lottery proposal were to be authorized in the District, the criminal provisions of the D.C. Code would have to be changed. A close look would have to be made at the whole of chapter 15 to determine how many sections may be

affected in order to authorize a lottery and what language may have to be changed to allow any other kinds of gambling, even bingo or raffles, and under which conditions (see Appendix).

OPERATING BEYOND CONSTITUTIONAL LAW

The D.C. Lottery and Charitable Games Control Board has exceeded its statutory authority by becoming a signatory to a multi-state agreement on September 16, 1987 and concert with lotteries oprated by Iowa, Kansas, Missouri, Rhode Island, Oregon and West Virginia. This compact or contract was never contemplated with the law that was ostensibly validated by Congress as of March 10, 1981. This obviously is ultra vires to the powers granted to the District of Columbia by the Home Rule Act, and it is a part of the continuing breach that renders the lottery

law a nullity.

LIMITATIONS NOT BINDING

Limitation of actions must be strictly construed against those asserting the defense, and it is interposed to bring to rest claims of a private nature that otherwise may be subject to reopening many years after the fact. This is not the case. This is a constitutional law that directly affects the health, welfare and morals of the public subjected to it, and because of that, it represents a continuing breach which can only be corrected by the actions of this court to decree such a law as unconstitutional.

The District can only be treated as a state for purposes of statutory benefit programs. Lottery does not have the statutory or constitutional characterization to qualify the District to be treated

as a State.

Lottery is a diseased commerce and has been denied the usage of the Federal Commerce facilities by a criminal statutory law passed by Congress in Title 18 1895. The law provided a criminal term for each violation.

The retention of constitutional authority demands strict adherence to the constitutionality in all bills from the city council which are presented to Congress for enactment.

The amended criminal enactment 18 U.S.C. 1307 afforded state owned lotteries a congressional authority to be treated as a statutory benefit which is not constitutional. The D.C. Pathological Law 3-172 is considered constitutional by the authority of retained congressional authority but not under the necessary and

proper clause of article 1 section 8 clause 18 in the Constitution of the United States.

PROCEEDINGS IN THE COURTS BELOW THAT PRESERVED THE CONSTITUTIONAL QUESTIONS

The petitioner initially filed his complaint in the United States District Court for the District of Columbia on Novembert 20, 1987, in civil action numbered 87-3142, a copy of the complaint is printed as Appendix C, and thereafter the United States Attorney for the District of Columbia replied by filing a motion to dismiss the complaint, alleging amongst other argument that this petitioner was barred by the statute of limitations, and further that the grounds upon which the petitioner sought jurisdiction of the trial court, in a pro

se pleading, did not effectively being the matter within the jurisdiction of that court.

Petitioner contends that he did raise proper and important constitutional questions that were never considered by the trial court, inasmuch as there was never a formal hearing on the cause, and that the final order case down with no opportunity for the petitioner to be heard on the merits of the claim.

Thereafter, petitioner filed a timely notice of appeal in the United States Court of Appeals for the District of Columbia, on April 20, 1988, appealing the order of the United States District Judge, of march 21, 1988, a copy of this is printed as Appendix A.

REASONS TO DISMISS THE STATUTE OF LIMITATIONS IN THE CASE OF JACKSON V. UNITED STATES

After the charge by the defense that this matter should be dismissed bacause of the statute of limitation, petitioner requested a letter validating the first instant lottery game and the date of its beginning. The information provided by the General Attorney of the D.C. Lottery and Charitable Control Board was that, "the first instant, the Instant Lottery Game started was on August 25, 1982." The only official date for the possibility of plaintiff's injury in fact was the date that the first lottery started as mentioned above. Petitioner first filed the petition for his constitutional rights from the injury in fact caused by the D.C. Pathological Gambling Statute 3-172 and the amended criminal statute 18 U.S.C. 1307 which in effect permitted the results

of lottery winners and promotions to be broadcast into his home and the community in which he lives. Those statutes are repugnant to the Constitution of the United States. Therefore, the starting date, August 25, 1982, for possible injury is to be prorated to the time of complaint, November 20, 1987. This is given a total time of five years, two months and approximately 27 days. Time for commencing action against United States Statute of Limitations Section 2401 under Title 28 - Judiciary and Judicial Procedure Clause (A) except as provided by the Contract Disputes Act of 1978, "every civil action commenced shall be barred unless the ocmplaint is filed in within six years after the right of action first accrues. The action of any person under legal disability or beyond the seas as the

time accrues may be commenced within three years after the disability. Under this definition of statute limitation indicating from the time accrued unitil the petitioner's complaint does not consist of six years, thereby, eradicating an interlocutory order and dismissal of Petitioner's pleading for declaratory judgment and injunctive relief from acts of Congress which are repugnant to the Constitution of the United States."

STATUTE OF LIMITATIONS CALCULATION
AUGUST 1982 - NOVEMBER 1987

August 25, 1982	
August 25, 1983	366 Days
August 25, 1984	366 Days
August 25, 1985	366 Days
August 1986	366 Days
August 24, 1987	365 Days
----------	-----5
Years	
August 25-31, 1987	7 Days
September 1987	30 Days
October 1987	31 Days
November 1-20, 1987	20 Days

1917 Days =

5 Years

2 Months

27 Days

ARGUMENT

Petitioner is a party who is relying on a constitutional statue for the District of Columbia (state) in the Home Rule Charter -D.C. Home Rule Law No. 93-198 - Title 6 -Section 601 - Reservation of Congressional Authority, and the retention of Constitutional Authority, "Article I -Section 8 - Clause XVII U.S.C."

In the year of 1895 Congress enacted Criminal Statutes 18 U.S.C. 1301 -- 1304 which prohibited the usage of the Federal Commerce Facilities for announcing the winners and advertising for new players by the Lottery.

The first case to challenge the constitutionality of the above Criminal Statues was Champion v. Ames 1903 - in which it was adjudicated that lottery

tickets are subjects of Commerce and the carrying of tickets from state to state constitutes interstate commerce, and that the regulation of such Commerce is within the power of Congress under the Constitution.

The subject for the extent of congressional power to regulate commerce was first decided in the case of Gibbons v. Ogden, 9 Wheaton 1, 6L.E.J. 23 (1824). It was argued by Daniel Webster. The opinion declared that Commerce is more than traffic. It is intercourse and it is regulated by prescribing rules for carrying on that intercourse. Regulating Power over Commerce does not stop at Jurisdictional Lines of States and maybe exercised within a state but it doesn't extend to Commerce wholly within a state. Article VI Clause II U.S.C. states that

any matter that effects Interstate Commerce is within the power of Congress.

In the case of Stone v. Mississippi 1880 - A Lottery Case. This question is about the impairment of the obligation of contract.

The substance was this: whether the contract existed depended on the authority of the Legislature to bind the state and people of the state in the way and in this case. A Legislature cannot bargain away the Police Power of a Sate, which pertains to all matters effecting public health or morals. In the constitution the people have expressed their wishes in this matter, so that no Legislature can by chartering a Lottery Company, defeat their wishes .....Lotteries are a species of gambling which disturb a well-ordered community. The right to suppress them is

governmental and may be invoked at will.

In the above-mentioned case Champion v. Ames in the opinion read by Mr. Justice Harlan, in determining whether regulation may not under some circumstances properly take the form or have the effect of prohibition, the nature of the interstate traffic which it was sought by the act of May 2, 1895 to suppress cannot be overlooked.....in other cases, we have adjudged that authority given by Legislative enactment to carry on a Lottery although based upon a consideration in money was not protected by the contract clause of the Constitution.

The usage of Federal Commerce facilities by Lotteries was prohibited from the 1800's until 18 U.S.C. 1301-1304 legislative enactment for State owned

Lotteries to be permitted, the Federal Commerce Facilities to promote pathological gambling and broadcast the winners. The amended gambling statute is 18 U.S.C. 1307 - this did violate the Anti-Trust Laws by monopolizing the usage of the Federal Commerce Facilities.

In the year of 1981, just seven years later as complete legislature retained in the Home Rule Charter for full constitutional authority, Congress did enact the D.C. Pathological Gambling Bill 3-172 into a Statutory Law.

Petitioner was injured in fact, sometimes after August 1982 through these criminal derived statutes - 18 - U.S.C. 1307 and D.C. Pathological Gambling Statue 3-172.

These are acts of Congress which are repugnant to the Constitution of the

United States.

Petitioner has depended upon the constitutional authority granted to the Congress as complete legislature for the District of Columbia (reorganizational act 93-198-Section 601) to prohibit lotteries nothwithstanding any other provision of this act, the Congress of the United States reserves the right, at any time to exercise its constitutional authority as Legislature for the District of Columbia by enacting legislation for the District on any subject whether within or without the scope of Legislative Power granted to the council by this act, including legislation to amend or repeal and Law in Force in the District or prior to or after enactment of this act and any act passed by the Council.

Petitioner claims that criminal

gambling statutes 18 - U.S.C. 1307 and D.C. Pathological Gambling Law 3-172 - are acts enacted under the constitutional authority of Congress for the District of Columbia, which are repugnant to the Constitution. These Pathological Gambling Laws are the causes for Plaintiff's injury in fact, from which he is seeking declaratory judgement and permanent injunction in pleading for his constitutional rights.

These constitutional violations were ignored completely and dismissed arbitrarily in an interlocutory order. Case No. 87-3142 on the statute of limitations with prejudice. Exhibit (1) 28 U.S.C. - 2401 (a).

The above interlocutory order involves a controlling question in case law. Petitioner was denied his due process of law from being permitted to

present evidentiary facts that would negate the mootness in the common law statute of limitation law, thereby, permitting the constitutional issue the adjudicated mandate upon this court to be acted upon.

Marbury v. Madison 1903, Justice Marshall "The Judicial Power" consisting of defined cases and controversies including constitutional questions, is vested by the United States Constitution, Article III, in the Supreme Court and such inferior courts as Congress may establish.

The U.S. Supreme Court, the U.S. Supreme Court of Appeals and the U.S. District Courts are created. Pursuant to this authority the Judicial Power has been interpreted to include the power to review and invalidate both Federal and State action.

In this case now being determined, the defendant, the United States of America, denies the obligations of statutes enacted by the Congress of the United States and plaintiff on his part contests the validity of acts which are repugnant to the Constitution of these United States. The Constitution of our country in its most vital parts is to be considered: the conflicting powers of the Congress of the United States and of its members, discussed; and an opinion given which may essentially influence the great operations of Government. On this Supreme Court of the United States has the Constitution of this country devolved this important duty.

In Malbury v. Madison 1803 Justice Marshall reasoned that it is the judicial duty to say what the law is when

constitutionality of the congressional act is drawn into question, this court must give effect either to the act or to the Constitution on the federal laws made in pursuance of the Constitution are the supreme laws of the land.

CONCLUSION

Petitioner has been waiting for the courts to say yes, The Congress did, constitutionalize the advertising and existence of pathological gambling for The District of Columbia which is repugnant to the Constitution of the United States or no, they did not.

Petitioner is being injured in fact, economically, aesthetically and environmentally, in a irreparable tortious way while waiting for the courts to follow a decision reasoned by Justice Marshall that "it is the judicial duty to say what the

law is when the constitutionality of a congressional act is drawn in to question, the court must give effect either to the act or the constitution, only Federal Laws "Made in pursuant" of the constitution are the supreme laws of the land Marbury v. Madison (1803)/2.

Fairness; due process (respect for judicial ruling is essential to the proper administering of Justice). Delays for want of form in the motion for declaratory judgement and injunctive relief, set fourth sufficient matter of constitituional substance for the court to grant appeal or proceed with the briefing scheduled as filed on July 15, 1988 Rule 13 (1) of the General Rules of this Court; which was rescinded.

This court was requested under the Jurisdiction of 28 U.S.C. 1254. Clause

(2) by appeal by a party relying on a state statue held by a court of appeals to the invalid as repugnant to the constitution, treaties or laws of the United States, but such appeal shall preclude by writ of certiorari at the instance of such appellant and the review on appeal shall be restricted to the federal questions presented.

CONSTITUTIONAL QUESTIONS OBSERVED

1. The value and validity of adjudicated constitutional statues have been called into questions without a doubt that there is any way to ascertain whether construction of these statutes is fairly possible by which Petitioner's case of controversy can be avoided.
2. Authority; congressional retention of constitutional legislative authority

over the District of Columbia not withstanding.

CONSTITUTIONAL CLAIM STATEMENTS

3. Congress enacted legislation of a constitutional statue which was amended, in violation of the commerce and contract clause of the constitution of the U.S.A.

4. Approved and enacted D.C. bill into a state statutory law. (relating to statute as opposed to common law, case law or equity): defined by statue; required by a statute; conforming to a statute.

These are acts by legislative authority not withstanding for the District of Columbia, Supra, the defendant congress of The United States of America owes the appellant duty to insure his constitutional rights against the cruel

and unusual punishment inflicted by the District of Columbia, the instrument through which Petitioner's unbearable destruction into his assured, domestic tranquility, and to his posterity continues.

There is sufficient information of a judicative and constitutional facts which are relevant to the above questions to grant Petitioner's his first, fourteenth amendment rights (due process of law).

Under the rules of U.S. appeals D.C. Court Circuit Appendix III civil appeals Management Plan section two clause three. "Either the Chief Judge or a motions panel may direct the clerk to make an early selection of a merits panel for a case.

This may be done when either the Chief Judge or a motion's panel concludes that a case or related cases present

unusual management problems or when economy and consistency will be promoted by having the merits panel consider preliminary motions. Denied.

Petitioner, Pro Se, will suffer injury in fact for everyday that the defendants acts which are repugnant to the Constitution of The United States obstruct justice causing injury in fact.

PRAYER FOR RELIEF

Wherefore Petitioner respectfully prays that court will advance this case as an emergency on the docket order a speedy hearing at the earliest date, cause this case to be in every way expedited.

WILLIAM D. JACKSON, Petitioner
44-58th Street, S.E.
Washington, D.C. 20019

CERTIFICATE OF SERVICE

In accordance with Rules 22.1 and 28.3 of the Rules of the Supreme Court of the United States, I hereby certify that three copies of the foregoing "Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia" were mailed first class United States mail, postage prepaid, to the following counsel of record on this _____ day of May , 1989.

The Honorable Richard Thornburg
Attorney General of the United States
U.S. Department of Justice
Washington, DC 20530

Jay B. Stephens, Esquire
United States Attorney
Judiciary Center
555 Fourth Street, N.W.
Washington, DC 20001

John C. Cleary, Esquire
Assistant United States Attorney
Judiciary Center
555 Fourth Street, N.W.
Washington, DC 20001

William D. Jackson

APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WILLIAM D. JACKSON

Plaintiff

v.

UNITED STATES OF AMERICA,

Defendant

Civil
Action No.
87-3142

FILED
MAR 21 1988
CLERK, U.S.
DISTRICT COURT
DISTRICT OF
COLUMBIA

ORDER

Upon consideration of defendant's motion to dismiss the complaint, the opposition thereto, the reply thereon, and the entire record herein, and it appearing to the Court that this action is barred by the statute of limitations, 28 U.S.C. Sec. 2401(a), it is, this 21st day of March,

1988,

ORDERED, that defendant's motion to dismiss is granted; and it is

FURTHER ORDERED, that this action is dismissed with prejudice.

/s/Thomas Penfield Jackson
Thomas Penfield Jackson
U.S. District Judge

APPENDIX B

APPENDIX B

United States District Court for the
District of Columbia

WILLIAM D. JACKSON
Plaintiff.

vs. Civil No.
873142 (TPJ)

UNITED STATES OF AMERICA
Defendant.

NOTICE OF APPEAL

Notice is hereby given this 20th day of April, 1988, that

WILLIAM D. JACKSON

hereby appeals to the United States Court of Appeals for the District of Columbia from the judgment of this Court entered on

the 21st day of March, 1988 in favor of defendant, The United States of America against said plaintiff, William D. Jackson - granting defendant's motion to dismiss the complaint as being barred by the statute of limitations; said complaint being dismissed with prejudice.

/s/William D. Jackson
Pro se Attorney for

CLERK: Please mail copies of the above Notice of Appeal to the following at the addresses indicated:

APPENDIX C

APPENDIX C

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

WILLIAM D. JACKSON +

44 58th Street, S.E. +

Washington, D.C. 20019 +

Plaintiff +

v. +

UNITED STATES OF AMERICA +

Washington, D.C. 20005 +

SERVE: Edwin Meese, Esquire +

U.S. Attorney General +

U.S. Department of Justice +

JACKSON, J.
Civil Action
No. 87-3142
Nov. 20, 1987

Washington,
D.C. 20005 +

Defendant +

COMPLAINT

(Declaratory and Injunctive Relief; Violation of Constitutional Rights)

Comes now plaintiff William D. Jackson, Pro Se, and respectfully represents unto this Honorable Court as follows:

I

JURISDICTION

1. That jurisdiction of this Court is invoked pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, et seq.; Declaratory Judgment Act, 28 U.S.C. 2201, 2202; 28

U.S.C. 1343(3), (4); Eight Amendment of the Constitution; and the Commerce and Anti-Trust Regulation, 28 U.S.C. 1337.

II

PARTIES

2. That plaintiff William D. Jackson, an adult citizen of the United States and a bona fide resident of the District of Columbia, is a registered minister, parent, and civic leader in the District of Columbia.

3. That the District of Columbia is an instrumentality of the Defendant United States of America and as such is authorized to pass such laws and regulations it deems appropriate subject to a thirty (30) day

review period by the Congress of the United States.

III

STATEMENT OF CLAIM

4. That plaintiff incorporates by reference herein paragraphs numbered 1 through 3 as though fully set forth herein, and state further:

5. That on or about 1973, the Congress of Defendant United States of America invested the District of Columbia Government with the authority to legislate in matters affecting the welfare of residents and citizens of the District of Columbia, under the Home Rule Charter, 1 District of Columbia Code 101, et seq.

6. That notwithstanding the delegation of legislative authority referred to in provision five (5) above, the Defendant explicitly reserved unto itself the right to exercise its constitutional authority as Legislature for the District. (see 1 District of Columbia Code 206)

7. That effective March 10, 1981, the District of Columbia government enacted into legislation D.C. Law 3-172, The Lottery Act, which effectively legalized pathological gambling within the District of Columbia and impacted interstate commerce via the use of promotional advertising and supply transactions.

8. That since enactment of the Lottery Law referred to above, Plaintiff, his

family, and constituents have continuously been harassed by the constant exposure to promotional advertising via the mass media within and without the District of legalized gambling by the District of Columbia governmental created entities, all to plaintiff's detriment.

9. That within a ten (10) square block area of plaintiff's residence in the District of Columbia, there exists at least ten (10) lottery outlets selling tickets to District and Out-of State residents, enticing persons to engage in pathological gambling, encouraging persons to deprive their families of necessities in order to address their addictions to gambling, and causing Plaintiff to suffer loss of esteem

with his family and constituents in the community in view of his attempts to address said symptoms of the disease of legalized gambling.

10. That as Legislature for the District, supra, the defendant Congress of the United States of America owes Plaintiff the duty to insure his constitutional right against the cruel and unusual punishment inflicted by state sanctioned pathological gambling emanating from the District of Columbia Law 3-172, and by failing to exercise its constitutional authority of review and regulation of matters affecting interstate commerce and contract, it breached its duty to plaintiff.

11. That as a direct and proximate

consequence of Defendant's breach, Plaintiff has suffered grave psychological and other damages from the administration of the unconstitutionally enacted District of Columbia Law 3-172.

IV

EQUITY IRREPARABLE INJURY

12. There is a real and actual controversy between the parties hereto. Plaintiff has no plain, adequate, or complete remedy at law to redress the wrongs alleged herein and this suit for injunctive and declaratory relief is the only means of securing adequate relief. The Plaintiff is now suffering and will continue to suffer irreparable injury from

the Defendant's acts and practices as set forth herein.

V

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays this Court to advance this case on the docket, order a speedy hearing at the earliest practical date, cause this case to be in every way expedited and upon such hearing to:

1. Issue a Declaratory Judgment that Defendant's acts, policies, practices and procedures complained of herein violated plaintiff's rights as secured under the Constitution of the United States; the Eight Amendment; and the Federal Tort

Claims Act.

2. And grant such other and further relief as to the Court seems just and proper.

VI

PLAINTIFF REQUEST TRIAL BY JURY

/s/William D. Jackson
William D. Jackson, Pro Se
44 58th Street, S.E.
Washington, D.C. 20019
581-1887
Plaintiff

APPENDIX D

United States Court of Appeals
for The District of Columbia Circuit

No. 88-5141

September Term, 1987
C.A. No. 87-03142

William D. Jackson,

Appellant

v.

United States of America

United States Court of Appeals For the District of Columbia CIRCUIT
FILED
JUL 15 1988
CONSTANCE L. DUPRE
CLERK

O R D E R

It appearing that the above case may fall within the intent and purpose of Rule 13 (i) of the General Rules of this Court and may also meet one or more of the criteria set forth in that rule,

it is

ORDERED, sua sponte, that a briefing schedule be established as follows:

Appellant(s) Brief and Appendix
or Record Excerpts August 29, 1988

Appelle(s) Brief October 3, 1988

Apellant(s) Reply Brief,
if any October 20, 1988

This notice does not preclude the court, after examination of the briefs, from setting this case for oral argument. If this case is accorded 13(i) treatment,

an order will be issued disclosing the panel prior to decision on the merits of the case.

All parties should include the following phrase on any pleading or brief hereinafter filed in this case: "CASE BEING CONSIDERED FOR TREATMENT PURSUANT TO RULE 13(i) OF THE GENERAL RULES"

For the Court

Constance L. Dupre,
Clerk

By: /S/
Theresa L. Johnson
Deputy Clerk

ORDER 86-11
(10/86; rev 8/87)

United States Court of Appeals
for The District of Columbia Circuit

No. 88-5141

September Term, 1988
C.A. No. 87-03142

William D. Jackson,

Appellant

v.

United States Court of Appeals For the District of Columbia CIRCUIT
FILED
OCT 25 1988
CONSTANCE L. DUPRE
CLERK

United States of America

BEFORE: Wald, Chief Judge, Edwards and Williams, Circuit Judges

O R D E R

Upon consideration of appellee's motion for summary affirmance, appellant's motion for expedition, and the oppositions, it is

ORDERED that the motion for summary affirmance be granted for the reason stated by the district court in its order filed March 21, 1988. It is

FURTHER ORDERED that the motion for expedition be dismissed as moot.

The Clerk is directed to withhold issuance of the mandated herein until seven days after disposition of any timely petition for hearing. See D.C. Cir. Rule 15.

Per Curiam

RECEIVED
OCT 27, 1988
CLERK OF THE
UNITED STATES
COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

WILLIAM D. JACKSON,

Appellant

v.

UNITED STATES OF AMERICA,

Appellee

No. 88-5141

MOTION FOR RECONSIDERATION

The appellant, WILLIAM D. JACKSON, acting on behalf of himself, moves this

Court to reconsider its order hereinbefore filed on October 25, 1988, in which the Court grants the motion for summary affirmance in accordance with an order of the Court below dated March 21, 1988, and further to reconsider the denial of the motion for expedited hearing on this matter, and for reasons therefor states:

1. That the division of this Honorable Court has failed to give recognition to the fact that the issues presented are of extreme public interest and cannot be extinguished by the mere assertion of the Statute of Limitations, especially in view of the continuing breach of public laws and decisions of the Supreme Court of the United States in outlawing state conducted

lotteries, and the continuing harm to public morals and safety, all of which will be argued on brief by appellant;

2. And that in view of Rule 14 of this Court there are substantial issues to be resolved, matters that have substantially altered prior law and decisions, all of which should be considered by the Court, and that such final decision should set forth with specificity the findings and conclusions in published form.

WHEREFORE, appellant prays that

1. The Court reconsider its prior order of October 25, 1988, and reinstate this cause on the appeals docket for briefing

and oral argument thereon;

2. And that in accordance with Rule 14 of this Court that any final decision be published inasmuch as this case is one of public interest.

/s/WILLIAM D. JACKSON
WILLIAM D. JACKSON, PRO SE
44 - 58th Street, S.E.
Washington, DC 20019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Reconsideration was mailed, postage-prepaid, to John C. Cleary, Assistant United States Attorney, Judiciary Center Building, 555 Fourth Street, N.W., 4th Floor, Room 4108,

Washington, DC 20001, this 27th Day of October, 1988.

/s/WILLIAM D. JACKSON
WILLIAM D. JACKSON

United States Court of Appeals
for The District of Columbia Circuit

No. 88-5141

September Term 1988
C.A. No. 87-03142

William D. Jackson,

Appellant

v.

United States of America

Respondent

United States Court of Appeals For the District of Columbia Circuit
FILED
DEC 13 1988
CONSTANCE L. DUPRE - CLERK

BEFORE: Wald, Chief Judge, Edwards and Williams*, Circuit Judges

O R D E R

Upon consideration of appellant's Motion for Reconsideration filed October

27, 1988, it is

ORDERED, by the Court, that the Motion for Reconsideration is denied.

FOR THE COURT:
CONSTANCE L. DUPRE, CLERK
BY: /s/ Robert A. Bonner/CB
Robert A. Bonner
Deputy Clerk

RECEIVED
DEC. 20, 1988
CLERK OF THE
UNITED STATES COURT
OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

WILLIAM D. JACKSON,

Appellant

v.

UNITED STATES OF AMERICA,

Appellee

No. 88-5141

MOTION TO PUBLISH FINAL DECISION

The appellant, WILLIAM D. JACKSON, acting on behalf of himself, moves this

Court to Publish its order hereinbefore filed on December 13, 1988 in which the Court denies Applicant's Motion for reconsideration filed October 27, 1988.

That the division of this Honorable Court understands that recognition to the fact that the issues presented are of extreme public interest and cannot be extinguished by the mere assertion of the Statute of Limitations, especially in view of the continuing breach of public laws and decisions of the Supreme Court of the United States in outlawing state conducted lotteries, and the continuing harm to public morals and safety, all of which will be argued on brief by appellant:

The Court's equivocated answer ascribed

to the Statute of Limitations left appellant in very serious need for objective constitutional description.

THIS THIRD ARTICLE COURT DOES NOT HAVE THE CONSTITUTIONAL AUTHORITY TO DECLINE THE EXERCISE OF JURISDICTION WHICH IS GIVEN, THEN TO USURP AUTHORITY WHICH IS NOT GIVEN. IN SHORT HAVING ESTABLISHED THE POWER OF JUDICIAL REVIEW, WHAT RIGHT HAS THE JUDICIARY TO USE IT - SELECTIVELY? CHIEF JUSTICE MARSHALL (COHENS v. VIRGINIA 19 US 264-1921) "Judicial Review is the doctrine that the courts have the power, to invalidate governmental, action which is repugnant to the Constitution of the United States, it

is emphatically the province and duty to say what the law is." (Marbury v Madison (1803))

IN AN Opinion READ BY JUSTICE HARLAN (CHAMPION v. AMES): "In other cases we have adjudged that authority given by legislative enactment to carry on a lottery, although based on a consideration of money was not protected by the contract clause of the Constitution. This for the reason that no state may bargain away its power to protect the public morals, nor excuse its failure to perform a public duty by saying it had agreed by legislative enactment not to do so." (Stone v Mississippi - 101 - US 814) (Douglas v Kentucky, 168 U.S. 488).

WHEREAS U.S. APPEALS D.C. CIRCUIT RULE 14(a) HAS A POLICY TO PUBLISH OPINIONS AND EXPLANATORY MEMORANDA FOUND TO HAVE GENERAL PUBLIC INTEREST. AFTER THE JUDGMENT ANY PERSON BY MOTION MAY REQUEST THAT AN UNPUBLISHED OPINION BE PUBLISHED.

WHEREAS, APPELLANT QUALIFIES FOR THE CRITERIA NECESSARY TO MAKE A MOTION TO PUBLISH UNDER THIS SUBSECTION (b)

(1) with regard to a substantial issue it resolves, it is a case of first impression or the first case to present the issue in this Court;

(2) it alters, modifies, or significantly clarifies a rule of law previously announced by the Court;

(3) it calls attention to an existing rule of law that appears to have been generally overlooked;

(4) it criticizes or questions existing law;

(6) it reverses a published agency or district court decision, or affirms a decision of the district court upon grounds different from those set forth in the district court's published opinion; or

(7) it warrants publication in light of other factors that give it general public interest.

Pursuant to item (b) (7) above, the following words are from a hearing of the

President's Commission on organized crime by Jerome Skolnick, Professor at Law, (Jurisprudence and Social Policy) at the University of California:

"What is governmental policy? What are we trying to achieve by our three main governmental options...? Prohibitions, Permission and Promotion? Do we approve the situation we've created? And finally, what can we do about it if we don't approve?

. . .

The Lottery is usually established for the purpose of raising funds that would otherwise be collected through taxation, as the result, the government becomes involved not only in permitting an activity, but promoting it, in creating a

demand for the activity. Said he, 'Justice Louis Brandeis once wrote "our government is the potent omnipresent teacher for good or ill, it teaches the whole people by example." I think you have to examine yourselves; is it consistent for the same government that is supposed to promote literacy, the environment, and public health, also to promote gambling?'

There is a real and actual controversy between the parties hereto. Appellant has no plain, adequate, or complete remedy at law to redress the wrongs alleged therein. This prayer for publishing the motion which denied the appeal from the decision that dismissed appellant's request for declaratory judgement and injunctive

relief from Acts of Congress which are repugnant to the Constitution of the United States and thereby violating his due process of law. This is the only means to adequately satisfy the requirements for general public interest.

Appellant prays that this Court will publish the opinion, memorandum and other statements explaining the basis for this Court's action of judgment.

O R D E R

Of judgment in action dated December 13, 1988, which is the motion for reconsideration denied.

/s/William D. Jackson

William D. Jackson, Pro-Se
44 - 58th Street, S.E.
Washington, D.C. 20019
(202) 581-1887

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion To Publish Final Decision was mailed, postage-prepaid, to John C. Cleary, Assistant United States Attorney, Judiciary Center Building, 555 Fourth Street, N.W., 4th Floor, Room 4108, Washington D.C. 20001, this 29th day of December, 1988.

/s/William D. Jackson
WILLIAM D. JACKSON

APPENDIX E

United States Court of Appeals
for The District of Columbia Circuit

No. 88-5141

September Term
1988
C.A. No.
87-03142
United States
Court of Appeals
For the District
of Columbia
Circuit
FILED
FEB 14 1989
CONSTANCE L.
DUPRE
CLERK

William D. Jackson,

Appellant

v.

United States of America

BEFORE: Wald, Chief Judge, Edwards and Williams, Circuit Judges

O R D E R

Upon consideration of appellant's Motion For Publication it is ORDERED, by the Court, that the Motion is denied.

FOR THE COURT:
CONSTANCE L. DUPRE, CLERK
BY: /s/ Robert A. Bonner
Robert A. Bonner
Deputy Clerk